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STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

ILLINOIS
COMMERCE COMMISSION

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BARBARA R. MILLER and
CHUCK NWANESHIUDU, pro se

Petitioners',

v.

SANTANNA NATURAL GAS CORPORATION

Respondent

Docket: No. 06-0168

CLERK'S OFFICE

**PETITIONERS' PRO SE MEMORANDUM OF LAW IN OPPOSITION OF
RESPONDENTS MOTION TO DISMISS PETITIONERS' COMPLAINT**

Barbara R. Miller and Chuck Nwaneshiudu, Petitioner's together pro se and pursuant to 83 Ill. Administrative Code §200.190a, humbly moves the Commission to strike Santanna Natural Gas Corporation's "Santanna" motion to dismiss Petitioner's complaint. In support of their motion, Petitioners' so state the following:

I. ARGUMENT

Santanna argues that the Commission lacks jurisdiction over this matter; however Petitioner's so state the following:

On September 5, 2002, defendant's filed an informal billing dispute against Santanna Energy as agents of their property management company, Continental Financial Mortgage, Inc which is now dissolved. Respondents was not an alternative energy provider at that time since it's application as an Alternative energy provider was not granted until November 7, 2002 (See Attached Exhibit A);

The Commission should therefore have jurisdiction over this matter pursuant to (220 ILCS 5/3-105) (from Ch. 111 2/3, par. 3-105);

- a. Sec. 3-105. Public utility. "Public utility" means and includes, except where otherwise expressly provided in this Section, every corporation, company, limited liability company, association, joint stock company or association, firm, partnership or individual, their lessees, trustees, or receivers appointed by any court whatsoever that owns, controls, operates or manages, within this State, directly or indirectly, for public use

II. PETITIONERS' ;WERE NOT SANTANNA CUSTOMERS

If Petitioners' lack proper standing to seek relief from Respondent through a hearing with the Commission, Respondents lack standing to force Petitioners' to pay a debt that they as individuals do not owe. Instead, Respondents are vigorously pursuing Petitioners' in civil court to try to attach Petitioners' 14-unit apartment building to Respondents frivolous complaint? Respondents is now suing Petitioners' in civil court as individuals. **(See Exhibit B)**

III. PETITIONERS' COMPLAINT IS BARRED BY RES JUDICATA

Santanna is once again misrepresenting material fact by asserting that case # 03M1-126454 was a billing dispute when said case was filed as a Breach of Contract complaint **(See Exhibit C)**. Petitioners' counter-claim and long awaited Mandatory Arbitration Hearing were dismissed in April 2005 without Petitioners' prior knowledge, after Respondent's attorney "threatened" defendant's former attorneys with "sanctions pursuant to Rule 137" if they failed to "withdraw within 14-days" **(See Exhibit D)**. Petitioner's later filed re-filed their Answer and Counter-claim pro se, but it was dismissed by plaintiff's motion, because "Petitioner's can not represent a corporation." **(See Exhibit E)**.

Petitioners' seek the Commissions assistance in halting Respondent's aggressive and overly abusive collection practices in order to bring this matter to a close without further litigation and to end the further harassment of Petitioners'.

Santanna is fully aware that the default judgment ,entered on July 14, 2005, was due to a lack of due diligence by Petitioners' former attorney who failed to file an appearance, a motion to vacate the default judgment, and a motion amend the amount within the time allowed by the court. Defendants incurred further injury after the Court failed to exercise its discretion to order Respondent to authenticate its claim amount. The default judgment is currently on appeal **(Exhibit F)**.

Santanna states that Petitioners' **"cite no authority for their apparent contention that Santanna should be compelled to arbitrate or settle anything."** Petitioner's have not sought monetary damages because respondents filed Chapter 11 in Texas in 2005, shortly after the Illinois Attorney General filed its second consumer fraud complaint in October 2005 instead of enforcing it's the 2003 consent decree.

Petitioners' seek relief from Respondents abusive collections activities whereby Respondent is desperately trying to attached Petitioners' property to its frivolous complaint, without proper due process of law. *Article I of the Bill of Rights. Section I. Inherent and Inalienable Rights* so state that all men are by nature free and independent and have certain inherent and inalienable rights among which are life, liberty and the pursuit of happiness. **To secure these rights and the protection of property**, governments are instituted among men, deriving their just powers from the consent of the governed. (Source: Illinois Constitution.)

Section 2. Due Process and Equal Protection: No person shall be deprived of life, liberty or property without due process of law nor be denied the equal protection of the laws. (Source: Illinois Constitution.)

Respondents through and by its attorney continue to abuse the legal system to force Petitioners' to pay a erroneous amount that is not supported by the best evidence rule.

In considering Petitioners' Motion in Opposition to Respondents Motion to Dismiss, the Commission should take into consideration the Best Evidence Rule 1002 that states, "*no evidence is admissible unless it is the best that the nature of the case will show*".

The best evidence rule is predicated on the assumption that if the original was not produced, there is a significant chance of error or fraud in relying on a copy. The rule was codified in the Federal Rules of Evidence as Rule 1002:

"to prove the content of a writing, recording, or photograph, the original writing, recording or photograph is required except as otherwise provided in these rules or by Act of Congress.

Evidence of a bona fide debt should be more than a conclusory affidavit submitted by Respondents attorney to the court with incorrect computations **(See Exhibit G) which does not meet the requirements of the Best Evidence Rule.** Evidence of a bona fide debt must be supported by ledgers and other direct evidence from which the court can conclude for itself whether the amount has been correctly calculated. *Scalise v. Gorniak, 26 A.S.R.2d 85*

Respondents have long ignored Petitioner's request for documentation that support Respondent's claim of \$50,914.00. Respondent has not shown good faith in settling the matter by audit which would prove that Petitioners' do not owe the amount claimed and therefore should not have to pay Respondents legal fees, court costs, interest and late payments.

When the Commission and Respondent both failed to respond to Petitioner 2002 informal billing dispute (which was incorrectly paraphrased, excluded the main issue which is billing and was mailed to the wrong address), Petitioners' were not afforded an opportunity to prove they do not owe the amount claimed by Respondent.

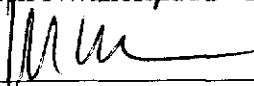
Petitioners' plead the Commission to return to and resolve this issue since it failed to do so in 2002 and since it also failed to advise Petitioners' of the Formal Complaint option in

2002. As a result, Petitioners' were abandoned by the Commission and left to the abusive collections practices of Respondent.

WHEREAS pursuant to the aforementioned, Petitioners' as individuals, hereby ask the Commission to protect their inalienable rights of due process, insure that Petitioners' receive a fair and just hearing, supervise an audit of Petitioners' account and award Petitioners' punitive damages or any other equitable relief or fair and just remedy the Commission deems proper in that will quickly resolve this matter by due process of law and bring Respondents abusive collection activities to an end.



Chuck Nwaneshiudu - Defendant - Pro se




Barbara Miller - Defendant - Pro se

CERTIFICATION

Under penalties as provided by law pursuant to 735 ILCS 5/1-109, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true. Chuck Nwaneshiudu - Defendant - Pro se



Chuck Nwaneshiudu - Defendant - Pro se



Barbara Miller - Defendant - Pro se

March 27, 2006
Paul F. Markoff
Crowley Barrett & Karaba Ltd
20 S. Clark Street, Suite 2310
Chicago, Illinois 60603
Tel: 312-726-2468

**PETITIONERS' EXHIBITS
IN SUPPORT OF THEIR FORMAL COMPLAINT**

1. Exhibit A: Respondents AGS Certificate approved November 7, 2002
2. Exhibit B: Respondents Motion for Summary Judgment filed March 7, 2006
3. Exhibit C: Amended Breach of Contract Complaint 03 M1 126454
4. Exhibit D: Letter from Krohn & Moss re "threat"
5. Exhibit E: Petitioners' Counter-Claim/Answer filed Pro Se on May 31, 2004
6. Exhibit F: Filing to Appeal Default Judgment and erroneous amount
7. Exhibit G: Respondents Certified Affirmation of an erroneous debt amount

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

BARBARA MILLER and
CHUCK NWANESHIUDU, pro se,

Petitioners

v.

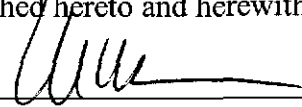
SANTANNA NATURAL GAS CORPORATION,
d/b/a Santanna Energy Services

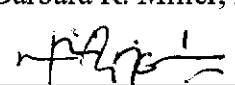
Respondents

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NOTICE OF FILING - PRO SE

PLEASE TAKE NOTICE that on this 27th day of March, 2006, Petitioners' Barbara Miller and Chuck Nwaneshiudu together pro se filed their *Memorandum of Law in Opposition to Respondents Motion to Dismiss Petitioners Formal Complaint* with the Clerk of the Illinois Commerce Commission, a copy of that motion is attached hereto and herewith served upon you.


Barbara R. Miller, Respondent Pro se


Chuck Nwaneshiudu, Respondent Pro se

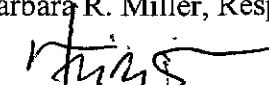
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing Notice of Filing was served upon the following parties by ~~hand delivery~~ ^{EXPRESS MAIL} on March 27, 2006.

John T. Riley
Administrative Law Judge
Illinois Commerce Commission
160 North LaSalle Street, C-800
Chicago, IL 60601

Paul F. Markoff
Crowley Barrett & Karaba, Ltd.
20 South Clark Street, Suite 2310
Chicago, IL 60603


Barbara R. Miller, Respondent Pro se


Chuck Nwaneshiudu, Respondent Pro se